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SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JORGE ORTEGA-ROCHA (1), ALBERTO MINOR-OLVERA (2), Defendants.	Case No. 07cr3054-IEG **STIPULATION AND JOINT MOTION FOR RELEASE OF MATERIAL WITNESS AND ORDER THEREON**

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Christopher M. Alexander, Assistant United States Attorney, and defendant ALBERTO MINOR-OLVERA, by and through and with the advice and consent of defense counsel, Mark Chambers, Esq., that:

1. Defendant agrees to enter into this stipulation and to participate in a full and complete inquiry by the Court into whether Defendant knowingly, intelligently, and voluntarily entered into it. Defendant agrees to plead guilty to Count 2 of the Indictment charging Defendant with a non-mandatory minimum count of Transporting an Illegal Alien in the United States, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii) and (v)(II).

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the United States not later than noon on February 8,

A.M.O.

2008.

3. Defendant agrees to plead guilty to Count 2 pursuant to the plea agreement on or before 5:00 p.m. on February 12, 2008.

4. Material Witnesses Jose Rosario Vega-Felix, Jose Vladimir Meza-Silvas, and Alfredo Silvas-Cardenas:

a. Are aliens with no lawful right to enter or remain in the United States;

b. Entered or attempted to enter the United States illegally on October 27, 2008;

c. Were found in a vehicle in which Defendant was the ~~driver~~ passenger and that Defendant knew or acted in reckless disregard of the fact that the individuals were aliens with no lawful right to enter or remain in the United States; MC. A.M.O

d. The aliens were paying money to Defendant's employers to be brought into the United States illegally and transported illegally to their destination therein; and,

e. May be released and remanded immediately to the Department of Homeland Security for return to their country of origin.

5. After the material witnesses are ordered released by the Court pursuant to this motion, if Defendant does not plead guilty to the charge set forth above, Defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witnesses provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of unavailable witnesses; and,

c. Understanding that under Crawford v. Washington, 541 U.S. 36 (2004), "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted and cross-examined the witness who made the "testimonial" hearsay statements, defendant waives the right to confront and cross-examine the material witnesses in this case.

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witnesses to the Department of Homeland Security for return to their country of origin.

It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

Dated: 2/12/08.

CHRISTOPHER M. ALEXANDER
Assistant United States Attorney

Dated: 2-8-08.

MARK CHAMBERS
Defense Counsel for
ALBERTO MINOR-OLVERA

Dated: 2-8-08.

ALBERTO MINOR-OLVERA
Defendant

ORDER

Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witnesses be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 2/12/08.

United States Magistrate Judge